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FISCAL IMPACT STATEMENT

LS 6868
BILL NUMBER: HB 1293

NOTE PREPARED: Jan 25, 2008
BILL AMENDED: Jan 24, 2008

SUBJECT: Taxation.

FIRST AUTHOR: Rep. GiaQuinta
FIRST SPONSOR:

BILL STATUS: CR Adopted - 1st House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) *Homestead Deduction Application Changes* - The bill establishes a procedure for the submission of a sales disclosure form for a homestead to constitute an application for the homestead credit. In cases where that procedure does not apply, changes the deadline for application for the credit for real property from June 10 to December 31. It provides that the sales disclosure form must include information to allow the form to serve as the homestead credit application. It also allows a county auditor to reduce the assessed value used to set tax rates to take into account standard deductions resulting from homestead credit applications filed late in the year.

Property Maintenance Area Tax Credit - The bill authorizes the designation of property maintenance areas (PMA) in any municipality. It provides that the fiscal body of a municipality may designate a PMA and provide a certification for qualified expenditures made for certain maintenance activities performed on certain property in a PMA. It provides a state tax credit for taxpayers that have received a certification of qualified expenditures made in a PMA. It also requires the Department of State Revenue and the county auditor to reduce the amount of the municipality's county option income tax allocation by an amount equal to the total amount of income tax credits awarded for property maintenance in the municipality.

Amended Property Tax Returns - The bill allows certain taxpayers to claim interstate commerce exemptions for certain inventory for the 2004, 2005, and 2006 assessment dates by filing amended returns before March 1, 2008. It also provides that the amended returns are considered to have been timely filed.

Effective Date: (Amended) January 1, 2008 (retroactive); upon passage; July 1, 2008.

Explanation of State Expenditures: (Revised) *Homestead Deduction Application Changes* - The state pays

Property Tax Replacement Credits (PTRC) in the amount of 60% of school General Fund levies attributable to all property. The state also pays 20% of the portion of operating levies (including the remaining 40% of the school GF levy) that are attributable to real property and nonbusiness personal property. Homestead credits are paid by the state in the amount of 20% of the net property tax due for qualifying funds on owner-occupied residences.

PTRC and Homestead credits are paid from the Property Tax Replacement Fund. In CY 2009, these payments cannot exceed $2,028.5 M (there is currently no limit for taxes payable in CY 2010 and after). Under current law, if these payments exceed this limit in CY 2009, PTRC rates for all taxpayers would be proportionately reduced in order to keep total payments within this limit. This bill first becomes effective for taxes payable in CY 2009. If, under this bill, additional taxpayers claim the credit, PTRC rates would be further reduced. The number of additional taxpayers who may file for the credit under this bill is not known.

Depending on the appropriation for state credits for years beginning with CY 2010, additional homestead filings could cause an increase in state expenditures.

Property Maintenance Area Tax Credit - The Department of State Revenue (DOR) will incur additional expenses to revise tax forms, instructions, and computer programs to reflect the new property maintenance area tax credit. The DOR's current level of resources should be sufficient to implement this change.

Explanation of State Revenues: (Revised) *Homestead Deduction Application Changes* - The state imposes levies for State Fair and State Forestry at a static tax rate. Under this proposal, the revenue allocated to these funds could decrease beginning in CY 2009 if the number of homestead-eligible taxpayers in a year increased. A taxpayer receiving the homestead credit also receives a standard deduction which can be up to a maximum of $45,000 depending on the year. Assuming that each additional qualified taxpayer receives the full $45,000 standard deduction, the tax base would be reduced by this amount for each taxpayer. As a result, the revenues allocated to State Fair and State Forestry would be reduced by approximately $45,000 x 0.000024 or $1.08 for each additional taxpayer.

Property Maintenance Area Tax Credit - The bill establishes an Adjusted Gross Income (AGI) Tax credit for qualified maintenance expenditures made by an individual or corporate taxpayer on the taxpayer's real property located in a property maintenance area (PMA). The bill permits a municipality located in a county that imposes county option income tax (COIT) to establish a PMA. The amount of credits that could potentially be claimed is indeterminable and would be contingent on the number of municipalities that establish PMAs, the scale of the PMAs, and the maintenance expenditures that would be creditable. The revenue loss from the PMA tax credits would, however, be offset by reductions in COIT distributions to municipalities where PMA tax credits are claimed. The COIT reductions would be made in the year following the year the credits are claimed. The fiscal impact from PMA tax credits could potentially begin in FY 2010, provided PMAs are established and tax credits certified in 2009.

The tax credit is equal to the lesser of: (1) 50% of the "qualified expenditures" made on the taxpayer's property in the PMA and certified by the municipality in a PMA certification; or $1,500. Qualified expenditures must be for remodeling, repair, or improvement of property in the PMA. The bill does not provide for the tax credit to be refundable, or for taxpayers to carry forward or carry back excess credits. If the taxpayer is a pass through entity and does not have a tax liability, the credit could be taken by shareholders, partners, or members of the pass through entity in proportion to their distributive income from the pass through entity, or as otherwise agreed to by shareholders, partners, or members of the pass through entity. The tax credit is effective beginning in tax year 2009.

Revenue from the Corporate AGI Tax is deposited in the state General Fund. Eighty-six percent of the revenue from the Individual AGI Tax is deposited in the state General Fund, and 14% is deposited in the Property Tax Replacement Fund.

<u>Explanation of Local Expenditures:</u> *Homestead Deduction Application Changes* - As of November, 1 2007, forty-nine counties currently provide additional Homestead credits that are paid with proceeds from a combination of county option income taxes (COIT) and county economic development income taxes (CEDIT). Local homestead credits in CY 2009 and later could increase if this proposal results in an increase in the number of eligible taxpayers. COIT proceeds that are not used for county homestead credits are distributed to civil taxing units as certified shares. CEDIT proceeds that are the result of the additional rate allowed for homestead credits may only be used for homestead credits.

<u>Explanation of Local Revenues:</u> (Revised) *Homestead Deduction Application Changes* - Under current law a taxpayer may claim the homestead credit on homestead property owned on March 1 of the assessment year. The taxpayer must file an application with the county auditor of the county in which they own the property by June 10 of the assessment year.

This bill would:

1) Qualify an individual who resides in the homestead on December 31st of the assessment year for the homestead credit if the individual is liable for the tax even if the individual did not own the property on the assessment date;
2) Change the homestead credit application filing deadline to December 30 of the assessment year; and
3) Enable the taxpayer to use the sales disclosure form as a homestead credit application form.

Taxpayers who receive the homestead credit automatically qualify for the standard deduction. County auditors may currently reduce the certified AV that is used to calculate tax rates in order to absorb the effects expected to result from successful appeals. The maximum adjustment is the lesser of (1) 2% of total AV or (2) the amount of successful appeals in the previous year.

This bill would also allow the certified AV to be adjusted to absorb the effects of any additional standard deductions granted after AV is certified. The limit of all adjustments would be 2% of total AV and would no longer be tied to appeals in the previous year.

The reduction of assessed value to the tax base would provide a tax shift from the newly qualified homesteads to other property. The revenue for cumulative funds would be changed by the product of the fund rate multiplied by the net change in the amount applicable to that fund.

Property Maintenance Area Tax Credit - The bill authorizes a municipality in a county imposing COIT to establish by ordinance a PMA, the boundaries of which may not exceed 5% of the total land area of the municipality. The bill provides for a PMA to be in effect at least one year, but not more than 10 years. The bill provides a state AGI tax credit for qualified expenditures for remodeling, repair, or improvement of property in the PMA. A municipality establishing a PMA must certify qualified expenditures in order for the tax credit to be claimed.

The bill requires a municipality establishing PMA to reimburse the state for the entire cost of PMA tax credits claimed for qualified expenditures in the municipality's PMA. The reimbursement is done by reducing the COIT distribution to the municipality in the year following the year in which the tax credits are claimed.

Amended Property Tax Returns - Under the bill, amended returns that were submitted for filing from January 1, 2008 through March 31, 200, for 2004 Pay 2005 taxes, 2005 Pay 2006 taxes, and 2006 Pay 2007 taxes would be allowed. Taxpayers would be entitled to exemptions claimed on the inventory schedule and on the 103-W (warehouse exemption return).

The bill would also nullify a notice of increased assessed value (AV) from the township assessor. Penalties and interest would not apply to the net increase in taxes resulting from the amended return. In addition, the bill provides that the taxpayer is not entitled to a refund with respect to an amended return filed by the taxpayer.

There is at least one known taxpayer in Marion County that would be affected by this bill. The taxpayer received an increase in the assessment of inventory due to an audit. The increase in net taxes for all three years is unknown. Under current law, the taxpayer does not qualify for exemptions since they were not claimed on a timely filed original or amended return. The taxpayer must pay the entire additional tax bill, plus interest at 10% per year.

Under this bill, the taxpayer would only be required to pay the portion of the tax bill that applies to the non-exempt portion of the added AV. This payment would be without interest. The taxpayer's additional tax liability would be reduced if the amended return is allowed by this bill.

It is unknown whether there are any other taxpayers that could be affected by this provision.

State Agencies Affected: State Fair Board; DNR Division of Forestry; Department of Local Government Finance; Department of State Revenue.

Local Agencies Affected: County Auditors; municipalities in counties imposing COIT.

Information Sources: Joe Smith, Baker & Daniels

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